

REMARKS/ARGUMENTS

The Office Action mailed January 3, 2006 has been carefully reviewed. Reconsideration of this application, as amended and in view of the following remarks, is respectfully requested. Claims 1-13 originally appeared in the application. Claims 5-9 and 12-13 have been cancelled. The claims presented for examination are: claims 1-4 and 10-11.

35 USC 112, First Paragraph Rejection

In the Office Action mailed January 3, 2006 claims 3 (believed to be 9) and 13 were rejected under 35 U.S.C. 112, first paragraph. Applicants believe that it is claim 9 rather than claim 3 that is rejected. Applicants have cancelled claims 9 and 13.

35 USC 112, Second Paragraph Rejection

In the Office Action mailed January 3, 2006 claims 3-8, 10, and 12-13 were rejected under 35 U.S.C. 112, second paragraph. Applicants have cancelled claims 5-8 and 12-13. Claims 3, 4, and 10 to overcome the 35 U.S.C. 112, second paragraph rejection.

35 USC 102 Rejection

In the Office Action mailed January 3, 2006 claims 1, 3-5, and 9 were rejected under 35 U.S.C. 102(e) as being anticipated by the Yamazaki et al reference (U.S. Patent No. 6,306,694).

Applicant has amended independent claim 1 and dependent claims 3, 4, and 10 presented for examination. Applicant believes the invention claimed in amended claims 1-4 and 10-11 is not anticipated by the Yamazaki et al reference. The standard for a 35 USC §102 rejection is stated in RCA Corp. v. Applied Digital Systems, Inc, 221PQ 385, 388 (d. Cir. 1984) "Anticipation is established only when a single prior art reference discloses, either expressly or under

principles of inherency, each and every element of a claimed invention.”

Applicant points out that the combination of elements in amended claims 1-4 and 10-11 is not found in the Yamazaki et al reference.

Applicants have amended claims 1-4 and 10-11 to change the preamble from a “comprising” preamble to a “consisting of” preamble.

A “comprising” preamble is what is known as an open term. In effect, comprising is a shorthand way of saying “including the following elements but not excluding others.” For example, a combination “comprising A + B” covers the combination A + B + C.

On the other hand, a “consisting of” preamble is a closed term. A combination “consisting of A + B” does not cover the combination A + B + C.

Applicants’ invention defined by amended claims 1-4 and 10-11 provides a specific combination of elements “consisting of” the specific combination of elements enumerated in amended claims 1-4 and 10-11. This specific combination of elements is not found in the cited Yamazaki et al reference; therefore, the Yamazaki et al reference would not support a 35 USC §102 rejection. Copies of Applicants drawing figure 4C and the cited Yamazaki et al reference drawing figure 3B are provided below illustrating that the specific combination of elements enumerated in amended claims 1-4 and 10-11 is not found in the cited Yamazaki et al reference.

Applicants FIG. 4C Below

(Elements of claim 1 in order as they appear in FIG. 4C)

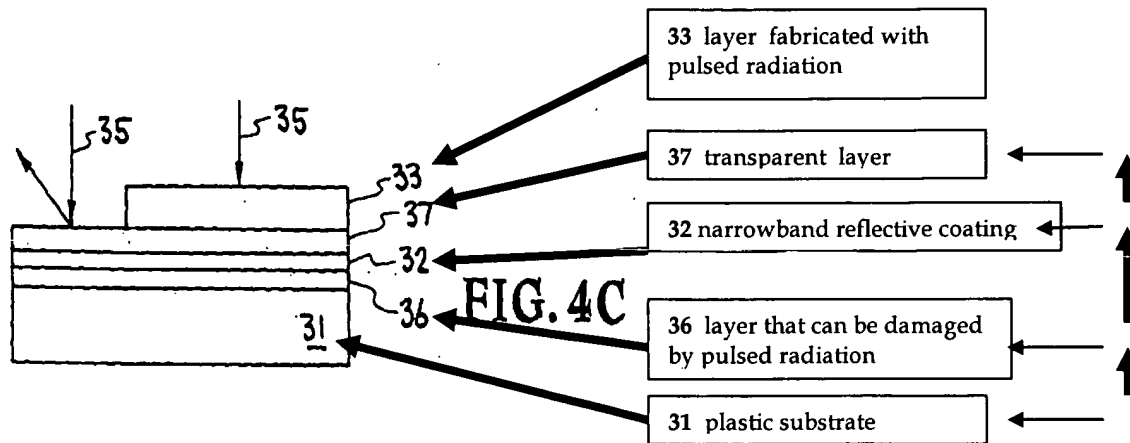
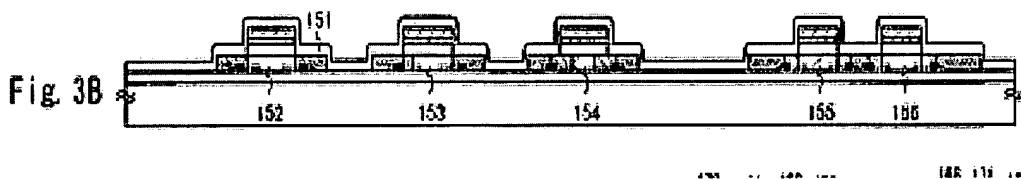


Figure 3B of Kamazaki et al Reference Below



35 USC 103 Rejection

In the Office Action mailed January 3, 2006 claims 2, 6-8, and 10-13 were rejected under 35 USC 103(a) as allegedly being unpatentable over the Yamazaki et al reference (U.S. Patent No. 6,306,694).

Of the rejected claim, only claims 2, 10, and 11 remain in the application. Applicant believes the invention claimed in claims 2, 10, and 11 is patentable over the Yamazaki et al reference. The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966) that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) include "Ascertaining the differences between the prior art and the claims at issue."

The differences between the Yamazaki et al reference and Applicants' invention defined by claims 2, 10, and 11 includes the fact that the specific combination of elements of claims 2, 10, and 11 is not found in the Yamazaki et al reference. Applicants' invention defined by claims 2, 10, and 11 provides a specific combination of elements "consisting of" the specific combination of elements enumerated in claims 2, 10, and 11. This specific combination of elements is not found in the cited Yamazaki et al reference.

SUMMARY

The undersigned respectfully submits that, in view of the foregoing amendments and the foregoing remarks, the rejections of the claims raised in the Office Action dated January 3, 2006 have been fully addressed and overcome, and the present application is believed to be in condition for allowance. It is respectfully requested that this application be reconsidered, that the claims be allowed, and that this case be passed to issue. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to call the undersigned attorney at (925) 424-6897.

Respectfully submitted,



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